

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

<b>TAMMA MAHURON,</b>	:	<b>Civil Action No. 07-3118(MLC)</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>ORDER</b>
	:	
<b>MERCK &amp; CO., INC.,</b>	:	
	:	
<b>Defendant.</b>	:	
	:	

This matter having come before the Court upon Motion by Defendant Merck & Co., Inc. (“Defendant”) to Stay Proceedings Pending Transfer to MDL No. 1789 [Docket Entry # 4], returnable August 6, 2007; and Plaintiff Tamma Mahuron (“Plaintiff”) filing a Motion to Remand [Docket Entry # 6], returnable September 4, 2007; and Defendant stating that “[o]n August 16, 2006, the Judicial Panel on Multidistrict Litigation (the “MDL Panel” or “Panel”) issued a transfer order establishing MDL Proceeding No. 1789” (Def.’s Mem. at 1); and Defendant further stating that “[t]he transfer order directed that 18 actions be transferred for coordinated pretrial proceedings in the U.S. District Court for the Southern District of New York before the Honorable John F. Keenan.” Id. at 1-2; and Defendant further stating that “[t]wo Fosamax cases removed by Merck to this Court have already been transferred to the Fosamax MDL Proceedings.” Id. at 2; and Defendant arguing that there is no “reasonable dispute that this action involves the same factual inquiries that the Panel noted were present in the Fosamax product liability actions generally, thereby warranting coordinated pre-trial proceedings in the Southern District of New York.” Id. at 3-4; and Defendant stating that it “expects this case to be listed on a conditional transfer order either this week or next, and expects that this case will be transferred to the Fosamax MDL proceedings.” Id. at 4; and Defendant further stating that “[t]here is no significant issue in this case that is not already before the transferee court in the Fosamax MDL proceedings.” Id. at 5; and Plaintiff stating in her Motion to Remand that “Merck

filed the Notice of Removal two business days after Plaintiff filed her suit essentially eliminating Plaintiff's choice of forum" (Pl.'s Mot. at ¶ 4); and Plaintiff further stating that "[b]ecause Merck is a citizen of the forum state, as it plainly admits, removal is not permissible." *Id.* at ¶ 7; and the Court finding that a stay in the present action pending its transfer to MDL-1789 will conserve the resources of the Court and prevent duplicative discovery and pretrial management efforts; and the Court further finding that because a stay is appropriate, Plaintiff's Motion to Remand will be denied without prejudice; and the Court having considered the parties' written submissions; and the Court having considered the matter pursuant to FED. R. CIV. P. 78; and good cause having been shown;

IT IS on this 6<sup>th</sup> day of August, 2007,

ORDERED that Defendant's Motion to Stay Proceedings Pending Transfer to MDL No. 1789 [Docket Entry # 4] is Granted. This action is stayed pending a transfer decision from the Judicial Panel on Multidistrict Litigation; and it is

FURTHER ORDERED that Plaintiff's Motion to Remand [Docket Entry # 6] is Denied without prejudice; and it is

FURTHER ORDERED that Defendant will advise the Court by letter on the first day of each month beginning in September as to the status of the case.

/s/ John J. Hughes

**JOHN J. HUGHES**

**UNITED STATES MAGISTRATE JUDGE**